

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Aiken Division

BAKER CONCRETE
CONSTRUCTION, INC.,

Plaintiff,

vs.

SAVANNAH RIVER NUCLEAR
SOLUTIONS, LLC,

Defendant.

CIVIL ACTION NO.: _____

AFFIDAVIT OF MERIT

Robert J. Runge II, a professional engineer, on behalf of Plaintiff, Baker Concrete Construction, Inc. ("Baker"), before the undersigned notary public on this day personally appeared, after being duly sworn deposes and states that:

1. My name is Robert J. Runge II.
2. I am over the age of eighteen.
3. I am a Professional Engineer, licensed in the State of South Carolina. My license number is 19757. I have attached my CV to this Affidavit as Exhibit "A". Additionally, I am also licensed in other jurisdictions as detailed in my CV. I am also a member in good standing of the American Society of Civil Engineers (ASCE) and the National Society of Professional Engineers (NSPE), among other organizations.

5. I have considerable experience in the design, regulatory compliance and construction of complex commercial and public construction Projects including nuclear projects and have been actively practicing in these areas of design and construction of for

EXHIBIT 1

the last 32 years.

6. I submit this Affidavit of Merit, pursuant to South Carolina Code §15-36-100 in support of the Plaintiff, Baker against Defendant, Savannah River Nuclear Solutions, LLC ("SRNS").

7. I have no financial interest in the outcome of Baker's lawsuit against SRNS.

8. Based on my review of the information provided, SRNS failed to accurately advise Baker of the deficiencies in the design of the Waste Solidification Building construction project ("the Project") prior to Baker's submission of its Proposal for the Project or the execution of the Subcontract between Baker and SRNS. Instead, SRNS warranted that the design for the Project was adequate for construction. By soliciting firm, fixed price, lump sum prices for the construction of the Project, SRNS warranted that the design was sufficient for the submitting of firm, fixed-price cost proposals. Additionally, SRNS' pre-proposal presentation emphasized the use of three dimensional modeling, intended to reflect a mature design, vetted to minimize or eliminate conflicts in the design. Finally, SRNS issued bid set and contract drawings for the Project, 1,180 of 1,201 (98.3%) of which were "Issued for Construction".

9. However, the design for the Project was not adequate for construction. Of those 1,201 drawings, 963 (80%) were later changed or revised by Design Change Form ("DCF") or Revision, 546 of which were affected by at least two DCFs or Revisions. This level of change or revision to contract drawings labeled "Issued for Construction" does not reflect a design that was ready for construction at the time of the Proposals or the execution of the Subcontract.

10. As the designer for the Project, SRNS had a professional responsibility to provide an adequate and constructible design for the Project and/or to accurately advise Baker and the other potential bidders for the Project of the status and degree of completion of the design for the Project. Not only did SRNS fail to accurately advise Baker of the deficiencies in the design and contract drawings, SRNS misrepresented the status and degree of completion of the design for the Project by issuing the Contract Drawings with 98.3% of the 1,201 drawings as "Issued for Construction" and by soliciting proposals for the Project on a firm, fixed-price, lump sum basis.

11. It is my opinion, as evidenced by the above-described negligent acts or omissions, there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the issuance of the design for the Project and the representations to Baker and the other prospective bidders for the Project fell outside acceptable professional standards for a licensed engineer in the State of South Carolina.

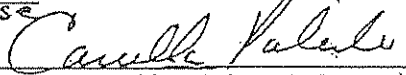
FURTHER AFFIANT SAYETH NAUGHT



STATE OF New York

COUNTY OF Essex

The foregoing instrument was acknowledged before me this 6 day of June 2013, by Robert Runge of Spangfield, NY. He is personally known to me or has produced N.Y. DRIVER'S License as identification and did (did not) take an oath.


(Signature of Person Taking Acknowledgment)

Robert. Runge.
(Name of Acknowledger Typed, Printed or Stamped)

CAMILLA PALUMBO
Notary Public - State of New York
Qual. in Essex Co. No. 01PA5043978
My Commission Expires July 10, 20 15

EXHIBIT A

ROBERT J. RUNGE II, P.E.

SUMMARY OF QUALIFICATIONS

Mr. Runge has over 30 years of professional engineering experience in the construction and design fields. Mr. Runge has owned and operated his own construction company and professional engineering company. Responsibilities have varied from the engineer of record to primary manager. He has provided services for the Decontamination and Decommissioning (D & D), Hoisting and Rigging, Structural Engineering and Environmental Services to both the Department of Energy (DOE) and industrial clients.

PROFESSIONAL REGISTRATIONS

Alaska, Colorado, Connecticut, Delaware, Florida, Georgia, Guam, Hawaii, Idaho, Iowa, Kentucky, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont and Washington.

PROFESSIONAL EXPERIENCE

Private Consultant

2012 – Present

Consulting with clients on business and technical issue in engineering, forensics and serve as an expert witness.

RJR Engineering, P.C.

2-02 to 2012

Client contact, design, regulatory compliance and managing partner for multi-discipline firm.
Projects include:

West Valley Demonstration Project – Multiple projects including D & D, structural, Hoisting and Rigging, and environmental oversight.

XC-1 Decommissioning

OGC

Permeable Barrier Wall

Monorail Crane Extension

Cutting access through concrete walls

Containment Structures Hard and Soft

Fire Protection review and accommodate changing conditions

New York Power Authority - Queens, New York

Paoletti Combined Cycle Power Plant – Piling oversight and Professional Engineer sign off.

Robert J. Runge II, P.E.

Saint Gobain Class, Inc. -- Muncie, Indiana
Saint Gobain Glass Port Allegany - Responsible Engineer for the oversight of code upgrade to existing plant, provide record documentation for glass bottle manufacturing facility.
Underground soil remediation and tunnel removal.

Robert J. Runge II, P.E.

Sole Proprietor

4-95 to 2-02

Client contact, design, drafting supervision, regulatory compliance, and all approvals on various projects in western New York. Projects included Timberlake 87 unit realty subdivision with water and sewer treatment facilities, 12' high X 70' long earth dam and remediation of on-site oil. Randolph Childrens Home, site drainage and repaving of existing and new facilities. Stoneridge, realty subdivision 100+ units into a side hill. Grading and slope stabilization are the major design on the projects

West Valley Nuclear Services

Engineer - West Valley Demonstration Project

3-92 to 3-95

Project support group -- projects supported passive barrier wall for underground contamination plom. Upgrades to waste water treatment plant. Meteorological tower replacement. Fuel pool support with fuel rods in pool. Radiation II and RPQ qualified.

Naussbaumer & Clarke, Inc.

Senior Engineer

10-90 to 4-92

Client contact, design, drafting supervision, regulatory compliance, and all approvals on various projects in western New York. Projects included thermal sludge de-watering system and heat recovery system for the sludge handling process for the Buffalo Sewer Authority at Bird Island Sewage Treatment Facility Midtown parking ramp, Oswego, NY. Rehabilitation and modification to existing structure to meet current codes. City of Oswego Water Treatment Facility Zebra Mussel Abatement Project. Design chemical feed system to deliver chemicals at intake shaft 1 mile offshore in Lake Ontario 45' deep with a tunnel 120' deep.

E & M Engineers & Surveyors

Project Engineer

9-89 to 9-90

Client contact, design, drafting supervision, regulatory compliance, and all approvals on various projects in western New York. Projects included reinforced concrete bridge Realty subdivisions road system, drainage, grading, water treatment system, and sewer treatment system.

Raimondi Associates, P.C.

Project Engineer

4-88 to 4-89

Consulting Engineer for private clients in southeastern New York and Northern New Jersey. Responsibilities involved realty subdivisions and municipal client project reviews and inspections.

Robert J. Runge II, P.E.

Maranatha Associates, Inc.
Construction Engineer - Owner

6-84 to 3-88

Performed sewer, water, drainage, and structural designs for residential subdivision from 5 units to 400 units. I handled all client contact and design from the concept phase through final approval.

Kiewit Eastern Co.
Job Engineer – Baltimore Subway System

7-81 to 5-84

Performed form design, steel design, support of excavation design, and crane rigging design. Performed quality control and assurance soil testing and concrete testing. Boundary and survey control. Work was spread out over three cut and cover subway stations and one box tunnel. Responsible for Subbrook Park Tunnel and Gold Street Shaft.

EDUCATION

Bachelor of Science, Civil and Environmental Engineering, Clarkson College of Technology, Potsdam, New York, 1981

CERTIFICATIONS/MEMBERSHIPS

Member - American Society of Civil Engineers (ASCE)
Member - National Society of Professional Engineers (NSPE)
Member - Society of Fire Protection Engineers (SFPE)
Member - Engineering Society of Buffalo, Inc.
Member - National Academy of Forensic Engineers